

**Introduced by Senator Ackerman**January 29, 2002

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An act to amend Section 41325 of the Education Code, to amend Section 59125 of, to repeal Sections 43739 and 53761 of, and to repeal and add Section 53760 of, the Government Code, and to amend Sections 24767 and 25115 of the Water Code, relating to municipal bankruptcy.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1323, as introduced, Ackerman. Municipal bankruptcy.

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States.

This bill would, instead, authorize, except as provided by statute, a local public entity in this state to file a petition and exercise powers pursuant to the applicable federal bankruptcy law. The bill would make other conforming changes and would make technical changes to correct obsolete references.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 41325 of the Education Code is
- 2 amended to read:
- 3 41325. (a) The Legislature finds and declares that when a
- 4 school district becomes insolvent and requires an emergency
- 5 apportionment from the state in the amount designated in this
- 6 article, it is necessary that the Superintendent of Public Instruction



1 assume control of the district in order to ensure the district's return  
2 to fiscal solvency.

3 (b) It is the intent of the Legislature that the Superintendent of  
4 Public Instruction, operating through an appointed administrator,  
5 do all of the following:

6 (1) Implement substantial changes in the district's fiscal  
7 policies and practices, including, if necessary, the filing of a  
8 petition under Chapter 9 of the federal Bankruptcy ~~Act~~ *Code* for  
9 the adjustment of indebtedness.

10 (2) Revise the district's educational program to reflect realistic  
11 income projections, in response to the dramatic effect of the  
12 changes in fiscal policies and practices upon educational program  
13 quality and the potential for the success of all pupils.

14 (3) Encourage all members of the school community to accept  
15 a fair share of the burden of the district's fiscal recovery.

16 (4) Consult, for the purposes described in this subdivision, with  
17 the school district governing board, the exclusive representatives  
18 of the employees of the district, parents, and the community.

19 (5) Consult with and seek recommendations from the county  
20 superintendent of schools for the purposes described in this  
21 subdivision.

22 SEC. 2. Section 43739 of the Government Code is repealed.

23 ~~43739. Any city authorized to refund its indebtedness~~  
24 ~~pursuant to this article may file a petition under any bankruptcy~~  
25 ~~law of the United States. If the refunding of the city indebtedness~~  
26 ~~is authorized in the bankruptcy proceeding, the city may refund its~~  
27 ~~indebtedness pursuant to this article.~~

28 SEC. 3. Section 53760 of the Government Code is repealed.

29 ~~53760. Any taxing agency or instrumentality of this State, as~~  
30 ~~defined in Section 81 of the act of Congress entitled "An act to~~  
31 ~~establish a uniform system of bankruptcy throughout the United~~  
32 ~~States," approved July 1, 1898, as amended, may file the petition~~  
33 ~~mentioned in Section 83 of the act and prosecute to completion all~~  
34 ~~proceedings permitted by Sections 81, 82, 83, and 84 of the act.~~

35 SEC. 4. Section 53760 is added to the Government Code, to  
36 read:

37 53760. (a) Except as otherwise provided by statute, a local  
38 public entity in this state may file a petition and exercise powers  
39 pursuant to applicable federal bankruptcy law.

(b) As used in this section, “local public entity” means any entity, without limitation, that is a “municipality,” as defined in paragraph (40) of Section 101 of Title 11 of the United States Code (Bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to political subdivisions of the state.

SEC. 5. Section 53761 of the Government Code is repealed.  
~~53761. The State consents to the adoption of Sections 81, 82, 83, and 84 by Congress and consents to their application to the taxing agencies and instrumentalities of this State.~~

SEC. 6. Section 59125 of the Government Code is amended to read:

59125. A legislative body authorized to conduct a proceeding pursuant to this chapter may file a petition and ~~take all actions required by any~~ *exercise powers under applicable* federal bankruptcy law ~~for a district formed under any improvement or acquisition law which provides for the payment of the improvement or acquisition by special assessment upon the property benefited as provided by Section 53760.~~

SEC. 7. Section 24767 of the Water Code is amended to read:

24767. An agreement or plan may not be carried out pursuant to this article until a proposal therefor is approved by the voters, and a plan may not be carried out until it is either:

(a) Agreed to in writing by all of the holders of bonds and warrants affected.

~~(b) Confirmed by a decree of any United States District Court in accordance with the provision of the National Bankruptcy Act, as amended—~~ *federal bankruptcy law.*

SEC. 8. Section 25115 of the Water Code is amended to read:

25115. The approval of the holders of outstanding refunding bonds affected by the modification shall be evidenced by either of the following:

(a) The written consent of all of the owners and holders of the bonds.

~~(b) A decree of any United States District Court in accordance with the provisions of the National Bankruptcy Act, as amended, which decree provides that the modification—~~ *An order under federal bankruptcy law that is binding upon the holders and owners of all of the outstanding refunding bonds affected.*